

Appendix H – Adaptive Management and Rangeland Handbook Direction

Adaptive Management (FSH 2209.13 Section 92.23)

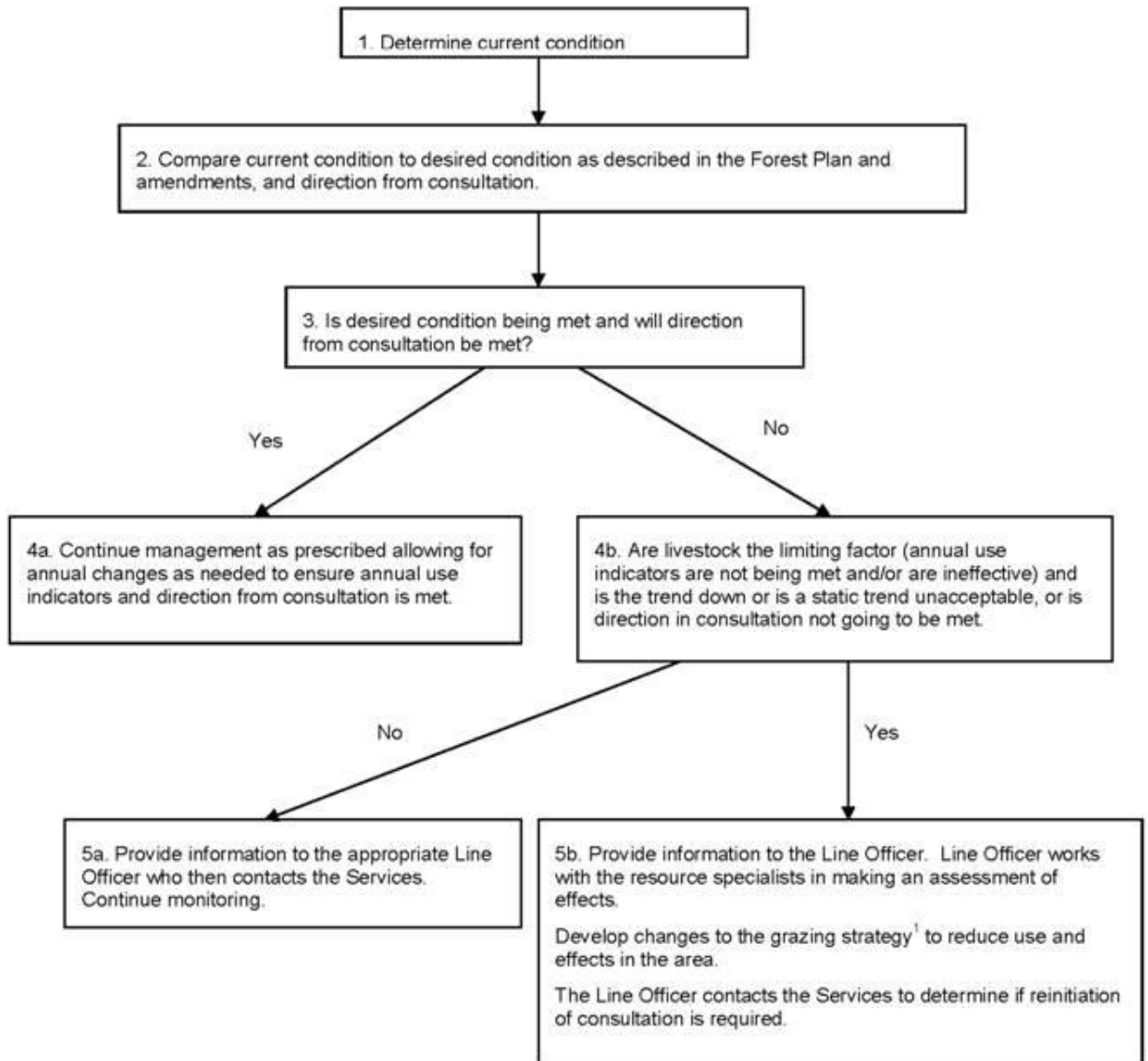
1. When livestock grazing is proposed using an adaptive management strategy, the proposed action shall set defined limits using adaptive management principles of what is allowed, such as timing, intensity, frequency, and duration of livestock grazing. These limits set standards that can be checked through monitoring to determine if actions prescribed were followed, and if changes are needed in management. The analysis discloses the effects for these standards. Administrative actions within the defined limits of the resultant decision can then be implemented. Examples of administrative decisions include:
 - a. Determination of specific dates for grazing,
 - b. Specific livestock numbers,
 - c. Class of animal,
 - d. Grazing systems, and
 - e. Range readiness when these variables fit within the decision.
2. Adaptive management utilizes the interdisciplinary planning and implementation process that provides:
 - a. Identification of site-specific desired conditions;
 - b. Definition of appropriate decision criteria (constraints) to guide management;
 - c. Identification of pre-determined optional courses of action, as part of a proposed action to be used to make adjustments in management over time, and
 - d. Establishment of carefully focused project monitoring to be used to make adjustments in management over time.

Planning for adaptive management may be initiated during development of the proposed action. It involves identification of future management options that may be needed to accelerate or adjust management decisions to meet desired conditions and/or project standards and objectives, as the need is determined through monitoring.

1. In circumstances where changes in conditions warrant implementation of a management option that has not been provided for in the analysis, or when the predicted effects of implementation are determined to be greater than the effects originally predicted, a supplemental or new analysis and decision is needed.
2. Building adaptive management flexibility into management allows for decisions that are responsive to needed adjustments in permitted actions. Historically, decisions have been too narrowly focused, such as deciding to authorize a specific number, kind, or class of livestock with specific on- and off-dates under a specific type of grazing system. These kinds of decisions have restricted management flexibility in meeting desired conditions and project objectives.

3. The key to development of adaptive management actions is to focus on factors that are essential to ensure management objectives are met. Critical factors may consider issues, such as timing restrictions in specific areas to manage conflicts with fisheries, big game, or recreation; or allowable use standards to ensure retention of defined levels of cover or riparian residual vegetation to trap and retain sediments. In any case, the focus must be on defining criteria that are critical to management success and to move away from making decisions that unduly restrict flexibility. Yet, in all cases, the proposed action must adequately detail the type and level of activities that can take place on a given allotment(s).
4. With a well-crafted adaptive management approach, the decision can remain viable for an extended period of time as long as there is periodic review of the actions for consistency with the decision. In most cases, the only situations that would require an updated NEPA analysis would be where unforeseen changed conditions have occurred that require management actions that have not been considered, and which may produce effects outside the scope of those predicted within the original document.

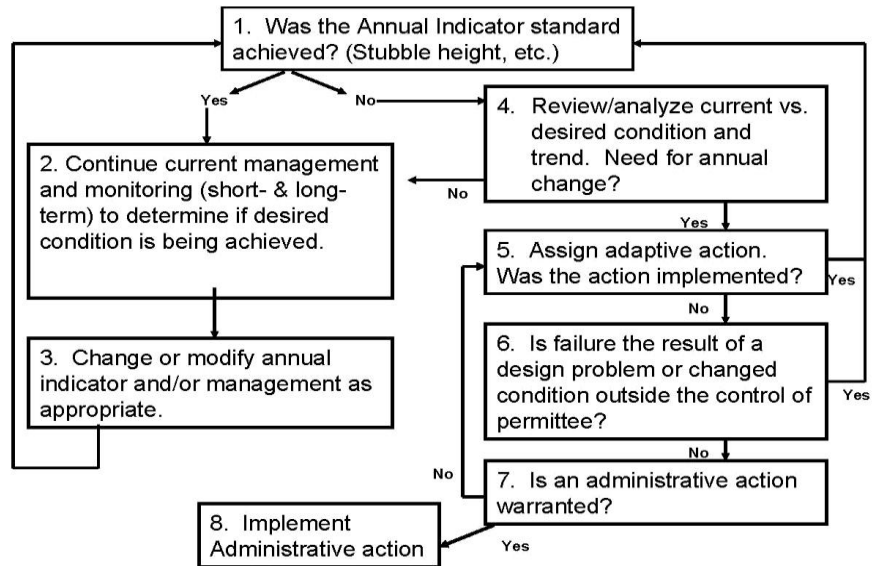
Diagram 1.0 – Implementation of Long-Term Adaptive Management Strategy for Allotments Requiring Consultation.



¹Management actions will initially reduce use in the area. It is expected this may occur in any number of ways including but not limited to changing the season of use, reducing numbers, changing amount of use on annual indicator, changing herding practices, changing salting practices and/or reconstructing/constructing range improvements. If use can't be reduced and livestock continue to be the limiting factor total removal of livestock from the area may be necessary. Effectiveness of changed management will be monitored through adjusted annual use indicators and effectiveness monitoring.

Decision Tree

Implementation of Annual Grazing Adaptive Mgt



- A. In Block 1, the grazing permittee(s) and/or land manager evaluates whether the annual grazing use indicator or standard was met. This assumes that the correct indicator and value was being used. This may be subject to reevaluation later in the process.
- B. Annual Indicator or Standard is Met: If the annual grazing use indicator is met, current management will continue, including short- and long-term monitoring as indicated in Block 2.
- B1. Continue Current Management and Monitoring (Block 2): Long-term monitoring indicators are used to assess whether management objectives for resource conditions and values are being achieved. This data will be used over time to

determine the effectiveness of annual grazing use indicators or standards in achieving the desired conditions.

- B2. Modify the Annual Indicator and/or Management as Appropriate (Block 3): If the desired condition objective is not being achieved, there is a need to change management and/or modify either the type or value of annual grazing use indicator being used.

If the desired condition objective is achieved, it may be possible to modify either the value or type of annual grazing use indicator and still maintain the desired condition. An example would be relaxing the numerical value (i.e., 4-inch versus 6-inch stubble height) or changing the type of annual grazing use indicator being used (i.e., change indicator from herbaceous utilization to woody utilization).

- C. Annual Grazing Use Indicator or Standard Is Not Met: If the grazing use exceeds the annual grazing use indicator or standard, proceed to the evaluation steps in Block 4.

- C1. Analysis and Determination of the Need for an Adaptive Management Adjustment (Block 4): If the grazing use exceeds the established annual grazing use indicator or standard, the resource manager, in consultation with the permittee(s) and others as appropriate, evaluates: 1) the potential cause for exceeding the standard, and 2) the significance of the excessive grazing use relative to its impact on the achievement of the desired resource conditions.

The resource manager, in consultation with the permittee(s), should determine whether the failure to meet the annual grazing use indicator is an infrequent occurrence or whether there is routine difficulty in meeting annual grazing use standards. A one-time occurrence due to some unique variable may not be significant and may not require further evaluation or adaptive management adjustments. Routine difficulty in meeting the annual grazing use indicator may indicate further evaluation and the need for adaptive management adjustments.

If further evaluation is warranted, comparison of the current condition with the desired condition should be made. If there is a large departure between current conditions and desired resource conditions, it may be fairly obvious that the need to achieve the annual use indicator is significant and that adaptive management actions are needed to provide for the achievement of the annual use indicator.

While the evaluation of current versus desired conditions should be made with the use of long-term monitoring data, this information may not be available. In that case, utilize the best available information or complete a simple and rapid qualitative analysis to compare current conditions with desired conditions. While long-term trend and condition information is preferred, the lack of such information should not delay the evaluation of the current rangeland condition and needed adaptive management adjustments. Adaptive management adjustments should be

temporary modifications until quantitative long-term condition and trend information is available to support permanent changes.

If the resource manager's evaluation concludes that current conditions are close to desired resource conditions, then failure to achieve the annual grazing use indicator during that grazing season may not be significant in terms of achieving long-term objectives. In this case, adaptive management adjustments may not be necessary. Existing management and monitoring to achieve desired conditions would continue (blocks 2 and 3). The exception to this situation may be where available information indicates that the long-term trend is negative, and adaptive management adjustments are needed.

If the resource manager's evaluation concludes that there is a significant gap between current and desired conditions and there is no indication of a positive trend, then the need for adaptive management adjustments are indicated.

- C2. Development and Implementation of Adaptive Management Adjustments (Block 5): If adaptive management adjustments are warranted, the resource manager develops these actions in collaboration with the permittee(s) and others, as appropriate. The adaptive actions are implemented through annual authorizations or operating instructions issued by the resource manager.

Once adaptive management adjustments are developed and assigned, the resource manager, in collaboration with permittee(s) and others, as appropriate, must assess whether the adaptive management adjustments were implemented as designed during the following grazing period.

If adaptive management adjustments were implemented by the permittee(s), then a determination as to whether these adjustments achieved the annual grazing use indicator would be made the following grazing period (Block 1). If the adaptive management adjustments were effective in achieving the annual grazing use indicator, then management and monitoring would continue as planned (Blocks 2 and 3). If they were not effective, then the resource manager, in collaboration with permittee(s) and others, as appropriate, must determine what additional adaptive management actions are needed (return to Block 5).

- C3. Adaptive Management Adjustment Not Implemented (Block 6): If the adaptive management adjustments were not implemented, the resource manager must determine if the failure results from a design problem or changed condition, outside the control of the permittee(s). If there were problems with the design or ability to implement the adaptive management adjustments outside the control of the permittee(s), the resource manager and/or permittee(s) would revisit the design or selection of the adaptive management adjustment (return to Block 5).
- C4. Determination of Non-compliance (Block 7): If failure to implement the adaptive management adjustment is not related to the design or inability to implement the

adaptive action by the permittee(s), the resource manager would assess the need for an administrative action. If the resource manager determines that an administrative action is not warranted, additional changes or adaptive management direction should be considered (return to Block 5).

- C5. Issue Notice of Non-compliance (Block 8): If failure to implement adaptive management adjustments is an issue of permittee(s) performance and compliance or is repetitive, then take appropriate action under the grazing regulations (36 CFR Part 222.4), Forest Service Manual direction (FSM 2231.6), and Forest Service Handbook direction (FSH 2209.13 sec. 16 & R4 FSH 2209.13 sec. 16).

16.2a - Permit Violations

It should be recognized that some violations may be very minor in nature, inadvertent on the part of the permittee, and easily corrected. It is not the intention of these guidelines to formalize adverse permit action for every minor permit violation that may occur. Examples of such minor violations could include a minor number of livestock being in the wrong pasture due to a gate being left open or fence in need of repair, a minor number of livestock that may have wandered off the allotment, or finding a few stray livestock that could not be found when a pasture was cleared or at the end of the grazing season. In these cases, a verbal contact with the permittee, followed by documentation to the file, is all that is necessary, provided the permittee takes appropriate action and it does not become a continuing problem. If the permittee does not take appropriate action or it becomes a chronic problem, then it is appropriate to formalize administrative action according to these guidelines.

16.2b – Notice of Non-Compliance

When non-compliance occurs, ensure that the permittee is provided with a clear, documented explanation in a notice of non-compliance letter as to:

1. Specific provisions of the Term Permit, AMP, AOI, or other document that are in non-compliance;
2. Specific actions that are required of the permittee to remedy the non-compliance, and to what standard they must be performed,
3. Timeframe the within which the action(s) must be performed; and,
4. Consequences for failure to comply.

When inspections document instances of non-compliance, notify the permittee and ensure that, to the extent feasible, they have an opportunity to correct the situation and bring their permit back into compliance. Conduct documented, follow-up inspections to determine whether or not compliance has been achieved. If so, document the findings in a letter to the permittee. If not, issue a decision with the appropriate administrative action. The decision letter must notify the permittee of appeal provisions under 36 CFR 251, Subpart C. If a suspension or cancellation

decision by an authorized officer is appealed under 36 CFR 251, implement the decision unless a stay is granted (36 CFR 251.91).

16.2e - Suspension and Cancellation Guidelines

Forests may not supplement the following guidance for consistent actions in grazing permit administration for the categories listed. The objectives are:

1. To obtain consistency on administrative actions taken on non-conformance with the terms and conditions of the term grazing permit.
2. To ensure consistency with recent Court decisions (Anchustegui) and guidance;
3. To provide a firm but fair approach.

If non-conformance with the permit terms and conditions occurs, these guidelines provide recommended actions deemed appropriate, while recognizing that situations and circumstances can vary. These guidelines are not all inclusive of potential situations. Direct questions to regional rangeland management specialist.

Non-compliance with the term grazing permit terms and conditions are generally cumulative. This means that any and all recent prior occurrences of non-compliance with permit terms and conditions should be considered in determining second and third offenses. Permit non-compliance instances in year 1 should be considered in actions taken on non-compliance situations occurring in year 2 or 3. However, do not consider an isolated non-compliance situation that occurred a number of years previous as evidence of a recurrent history of violations.

In addition to cancellation or suspension action, require the permittee to pay the unauthorized use rate for excess use where appropriate. Excess use is grazing livestock in greater numbers, or at times or places other than authorized by the permit or the bill for collection.

For many situations of non-compliance, the letter of non-compliance should contain an offer from the authorized officer to hear the permittees viewpoint. This opportunity for the permittee to be heard may take the form of a written letter or a personal meeting between the permittee and the authorized officer.

Follow guidelines below for determining the extent of suspensions and cancellations unless the authorized officer determines a different action is appropriate due to the specific circumstances of the violation.

1. Excess Use. Any livestock owned by the holder of a National Forest System grazing permit, but grazing on National Forest System lands in greater numbers, at times, or in places other than permitted in Part 1 of the grazing permit or authorized on the annual Bill for Collection, including any modifications made by the authorized officer, constitutes excess use. Failure to remove livestock at the end of the grazing season or when instructed by the authorized officer is excess use. Grazing Permit, Part 2, Section 8(c), 8(d), and 8(e).
 - a. Notice of Non-Compliance and Opportunity to Remedy. Contact the permittee by phone or in person to notify them of the non-compliance, specifying what parts of the Term Permit, AMP and/or AOI are in non-compliance; and, require livestock removal in full within 72 hours. Send a letter documenting the verbal discussion,

including what parts of the Term Permit, AMP and/or AOI are in non-compliance, what action is expected of the permittee to remedy the situation, to what standard, and by when. Bill for excess use at the unauthorized use rate.

- b. Notice of Permit Action for Non-Compliance. When documented inspection indicates that excess use has occurred for a second time, or if the initial non-compliance has not been remedied as specified, notify the permittee with a notice of permit action for non-compliance letter, by Certified Delivery – Return Receipt Requested, suspending 25 percent or more of the permitted numbers or seasons for a period of at least two years. Bill for excess use at the unauthorized use rate.
 - c. Repeat Offenses. When documented inspection indicates that excess use has occurred under repeat situations and/or the previous situations have not been remedied as specified, send a notice of permit action for non-compliance letter, by Certified Delivery – Return Receipt Requested, documenting the repeat non-compliance and indicating that the permit is being canceled in whole or in part as appropriate to the circumstances. Bill for excess use at the unauthorized use rate.
 2. Failure to Follow Management Instructions. The allotment management plan, annual operating instructions, or other management instructions for the land described on page 1, part 1 are part of the permit. The permittee must carry out the permit provisions, other instructions, or both as issued by the authorized officer for the area under permit, and require employees, agents, contractors and subcontractors to do likewise. Grazing Permit, Part 1, Section 3, Part 2, Section 8 (a-h).
 - a. Notice of Non-Compliance and Opportunity to Remedy. Contact the permittee by phone or in person to notify them of the non-compliance, including what provisions of the AMP and/or AOI are in non-compliance, and require correction of the problems associated with the situation within 72 hours. Specify precisely what action is required to bring the permit back into compliance. Follow-up with a letter documenting the verbal discussion including what parts of the Term Permit, AMP, and/or AOI are in non-compliance, what action is expected of the permittee to remedy the situation, to what standard, and by when.
 - b. Notice Permit Action for Non-Compliance. When documented inspection indicates that the initial non-compliance has not been remedied as specified, or if a second situation of non-compliance has occurred, contact the permittee by phone or in person describing the specific non-compliance and require correction within 72 hours or less. Follow-up with a notice of permit action for non-compliance letter, Certified Delivery – Return Receipt Requested, to the permittee indicating that a specified part of the permitted numbers or seasons is being suspended for a period of at least two years.
 - c. Repeated Offenses. When a documented inspection indicates repeated non-compliance with the AMP and/or AOI, send a notice of permit action for non-compliance letter, Certified Delivery – Return Receipt Requested, documenting the repeat non-compliance finding and canceling the permit in full.
 3. Failure to Maintain Improvements. The term grazing permit is issued and accepted with the provision that the permittee will maintain range improvements, whether private or

Government owned, that are assigned to them for maintenance in the grazing permit. Grazing Permit, Part 2, Section 8(i) and Part 3.

- a. Notice of Non-Compliance and Opportunity to Remedy. When a documented inspection indicates non-compliance with requirements to maintain improvements to standard within specified timeframes, contact the permittee in person or by phone and describe the results of the inspection, and the provisions in the Term Permit, AMP and/or AOI that are in non-compliance. Specify what action is required to remedy the non-compliance, to what standard, and within what time frame. Follow-up the personal contact with a letter indicating the specific instances of non-compliance, the provisions of the Term Permit, AMP and/or AOI which are in non-compliance, and specify what actions are required, to what standards and what timeframes. Document the inspection, with photographs if possible.

If maintenance is not completed according to specifications, and within specified timeframes, require the permittee to keep their livestock off or remove their livestock from the allotment, until maintenance is completed to standard.

- b. Notice Permit Action for Non-Compliance. When a documented inspection indicates that the initial non-compliance has not been remedied as specified, or if a second offense has occurred, send the permittee a notice of permit action for non-compliance letter, Certified Delivery – Return Receipt Requested documenting the inspection and suspending 25% or more of the permitted numbers or season for a minimum of two years. Do not permit livestock on the allotment until improvement maintenance is completed to standard.
- c. Repeated Failure to Maintain Improvements. Send a notice of permit action for non-compliance letter, Certified Delivery – Return Receipt Requested, canceling the permit in full.